

PROCEDURES IN THE DISCRIMINATION COMPLAINT PROCESS

Updated June 6, 2005

It is the policy of the Air Resources Board (ARB) to manage and resolve complaints at the most informal level possible. Everyone has a right to have a person of his or her choice accompany or represent him or her at any time during the Discrimination Complaint Process. If you are a bargaining unit member, a union representative may attend with you. The role of the representative is to provide support for the employee.

Employees may choose to file their complaints directly with other compliance agencies.

All employees involved in the discrimination process are expected to tell the truth. Fraudulent claims can result in punitive action.

Phase I of the Discrimination Process:

Employees who believe that they have been discriminated against should first discuss the problem with their immediate supervisor, the EEO Officer, or an EEO Counselor/Investigator. This informal step should be taken as the initial act in resolving discrimination complaints. Every effort will be made to resolve any problem quickly and informally and this process will remain as confidential as possible.

Phase II of the Discrimination Process:

If a satisfactory solution is not reached during Phase I, the employee must decide whether or not to file a formal complaint. A formal complaint is filed with the EEO Officer. This complaint must be in writing and must clearly set forth the particulars of the alleged discrimination including date(s) of discrimination act(s), basis of the complaint (age, race, sex, marital status, etc.), cause of the complaint, who was involved, list of witness, and any other information pertinent to resolving the complaint. The formal complaint always includes a fact-finding investigation. Once the complaint enters the formal phase of the process, confidential information may be released on a "need to know" basis. If corrective action results from the complaint, the respondent (alleged wrong doer) is entitled due process, which will be handled by the supervisor through the Human Resource Office.

The EEO Officer assigns an EEO Investigator to act as the fact finder during the formal discrimination investigation. The investigator works with the EEO Officer to determine who should be interviewed and what information is needed. The investigation is conducted immediately and must be resolved within 180 calendar days.

At the conclusion, a written report is prepared for the EEO Officer's review.

The EEO Officer reviews the written report and based on the findings, works with the supervisors for resolution. This may require corrective action through the personnel process, recommending changes in the workplace, or determining that no evidence supports the allegation of discrimination.

Making reprisals, threats, reprisal, or implied threats of reprisal following filing a discrimination complaint is prohibited.

Confidential information regarding complaints will be maintained by the EEO Officer. No information regarding a complaint will be placed in an employee's official personnel file without the knowledge of the employee. Copies of the final report may be requested in accordance with the Information Practice Act guidelines (IPA Civil Code Section 1798.24).

Time Frames:

Complaints must be filed with ARB EEO Office within one year (365 calendar days) of the alleged unlawful discrimination. An additional 90 calendar days may be granted directly following the one-year expiration date if the complainant just discovered the unlawful discrimination. A complaint which is not resolved by ARB within 180 calendar days from the date of formal filing may be referred to the State Personnel Board (SPB) as an appeal for remedial action. An extension of time can be requested by ARB with the concurrence of the complainant. Each complaint is resolved as expeditiously as possible.

Withdrawing the Complaint:

If the complainant wishes to withdraw his/her complaint during the process, the EEO Investigator will document the reasons but may continue the investigation at the EEO Officer's discretion.

Appeal Process:

If the complainant is not satisfied with the disposition of the complaint, he/she may appeal the decision by forwarding the complaint along with ARB's response to the Executive Officer of the State Personnel (SBP) within 30 calendar days. SPB is required to render a decision regarding an appeal of a discrimination complaint filed by a state civil service employee within four months of the filing of the petition.

If the complainant is not satisfied with the recommendation of SPB's Executive Officer, the complainant may appeal to SPB's five-member Board. SPB's Board can either hear the appeal directly, making a final and binding decision; take the matter under submission and seek further review; or assign the case to a Hearing Officer for further investigation. In any event, SPB is the final administrative level of review.

If the complainant is not satisfied with the decision made by SPB's, they may file a complaint with the appropriate state (Department of Fair Employment and Housing); or federal (Equal Employment Opportunity Commission) agency.

Direct SPB filing:

A complaint may be filed directly with SPB when a person believes that he/she has been retaliated against for being previously involved in a discrimination complaint process. A complaint may also be filed directly with SPB when the remedy requested is outside of the scope of ARB's authority to grant; when the circumstances directly involve an Executive Officer or members of his/her executive staff or when ARB has exceeded the 180 calendar days time frame as outlined in the discrimination complaint process.

State Personnel Board
Appeals Division
801 Capitol Mall
P.O. Box 944201
Sacramento, CA 95814-2010
Telephone: 916 653-0799
FAX: 916 654-6055

Other Compliance Agency Filing Options:

Through the enactment of federal and state laws, rules and regulations the U.S. Equal Employment Opportunity Commission (EEOC) and the California Department of Fair Employment and Housing (DFEH) were created to investigate complaints of discrimination and enforce EEO laws.

Complaints of discrimination may be filed simultaneously with the EEOC and/or DFEH. Complaints must be filed with EEOC within 300 calendar days of the alleged date of the discriminatory action. Complaints must be filed with the DFEH within 365 calendar days of the date of the discrimination action.

For Sacramento employees:

Mailing Address:
California Department of Fair Employment & Housing
2218 Kausen Drive, Suite 100
Elk Grove, CA 95758

Contact Information:
Telephone: 916 478-7200
Toll-free: 800 884-1684
FAX: 916 478-7320
TTY: 800 700-2320

U.S. Equal Employment Opportunity Commission
350 Embarcadero, Suite 500
San Francisco, CA 94105-1260
Phone: 415 744-500
FAX: 415 625-5609
TTY: 415 625-5610

The San Francisco Office is open Monday-Friday from 8:00 a.m. - 4:30 p.m. Walk-in services available on Tuesday, Wednesday and Thursday. Please call first to obtain information or schedule an appointment.

For El Monte employees:

California Department of Fair Employment & Housing
Los Angeles District Office
611 West Sixth Street, Suite 1500
Los Angeles, CA 90017
Telephone: 213 439-6799
Toll-free: 800 884-1684
FAX: 213 439-6715
TTY: 800 700-2320

U.S. Equal Employment Opportunity Commission
Roybal Federal Building
255 East Temple St., 4th Floor
Los Angeles, CA 90012
Telephone: 213 894-1000
FAX: 213 894-1118
TTY: 213 894-1121

The Los Angeles District Office is open Monday - Friday from 8:00 a.m. - 4:30 p.m. You may speak to an intake person in our office on a first come-first served basis. However, if you arrive in our office after 2:00 p.m., we cannot guarantee that the interview will be completed that day. If your disability prevents you from coming into the office in person or you require an interpreter (including ASL) or live outside this office's commuting area: a telephone interview can be arranged and the a telephone interview can be arranged and the paperwork will be handled through the U.S. Mail.

Healing the Workplace:

Allegations of discrimination are a serious matter. Discrimination is not only illegal, but causes stress and strain in the workplace even among employees who are not directly involved with the case. The Employee Assistance Program (EAP) is available for employees who desire counseling for stress, interpersonal conflicts, legal issues and questions.

Counseling is provided by licensed and qualified counselors and consultants. All information is privileged and handled in the same way as confidential information given to a doctor. There are no co-payments, co-insurance, or deductible payments. Employees may call 1-800-327-4762, TDD 1 800-327-0801 for appointments. You may visit the website at <http://eap4soc.mhn.com> or contact the EAP Coordinator listed on the Directory of Administrative Services.

ARB Discrimination Complaint Process

